

Cause No. 47596

JOE SHIELDS

VS.

R & B HOME SECURITY, INC., LAWRENCE
ARTHUR CORONADO, INDIVIDUALLY
AND D/B/A FORT KNOX SECURITY
COMPANY, and ADT SECURITY SERVICES,
INC.

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IN THE COUNTY COURT

County Court No. 2
NO. ~~of Galveston County~~

GALVESTON COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION
TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES JOE SHIELDS, hereinafter called Plaintiff, complaining of R & B HOME SECURITY, INC., a/k/a R & B SECURITY, LAWRENCE ARTHUR CORONADO, INDIVIDUALLY AND D/B/A FORT KNOX SECURITY COMPANY AND ADT Security Services, Inc., hereinafter called Defendants and for cause of action would respectfully show the Court as follows:

I.

This case is filed as a level II case.

II.

Plaintiff is an individual and a resident of Galveston County, Texas.

Defendant, R & B Home Security, Inc., a/k/a R & B Security, (hereinafter R & B), is a corporation organized and existing under the laws of the State of Texas. Service of process may be had upon it by serving its registered agent for service, Larry C. Roberts, at 14602 Wildwood Trace, Magnolia, Montgomery County, Texas.

Defendant Lawrence Arthur Coronado, Individually and d/b/a Fort Knox Security Company, is an individual. Service of process may be had upon him at 18614 South Lyford, Katy, Harris County, Texas

Defendant ADT Security Services, Inc. (hereinafter called "ADT") is a corporation organized and existing under the laws of the state of Delaware. Service of process may be had upon it by serving its registered agent for service, C. T. System Corporation, at 350 N. St. Paul, Dallas, Dallas County, Texas.

III.

This is a suit brought pursuant to the provisions of the Telephone Consumer Protection Act (hereinafter TCPA), 47 U.S.C. §227 and Section 35.47 of the Texas Business and Commerce Code.

IV.

The telephone numbers at Plaintiff's residence are (281) 482-7603, (281) 992-6276, and (281) 992-1165. Such numbers were assigned to Plaintiff by the telephone company servicing such residence.

COUNT ONE

V.

On August 25, 1999, at or about 3:48 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant R & B. The telephone number identified as the source of the telephone solicitation was 713/462-8810. This telephone number is an internal telephone number of the defendant R & B. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant R & B, nor did Plaintiff have a prior relationship with the business represented by said Defendant, ADT, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

VI.

The actions of the Defendant R & B described in this Count were done willfully or knowingly.

COUNT TWO

VII.

The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

VIII.

The actions of the Defendant R & B described in this Count were done willfully or knowingly.

COUNT THREE

IX.

Plaintiff requested by certified mail that defendant R & B place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded in such letter that

defendant R & B furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

X.

Defendant R & B, however, intentionally failed to comply with Plaintiff's requests by failing to place Plaintiff's telephone numbers on a "do not call" list and by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant R & B has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

XI.

The actions of the defendant described in this Count were done knowingly or willfully.

COUNT FOUR

XII.

On September 22, 1999, at or about 3:30 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant R & B. The telephone number identified as the source of the telephone solicitation was 713/462-5463. This telephone number is an internal telephone number of the defendant R & B. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant R & B, nor did Plaintiff have a prior relationship with the business represented by said Defendant, ADT, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

XIII.

The actions of the Defendant R & B described in this Count were done willfully or knowingly.

COUNT FIVE

XIV.

The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47CFR 64.1200, and section 35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

XV.

The actions of the Defendant R & B described in this Count were done willfully or knowingly.

COUNT SIX

XVI.

Plaintiff requested by certified mail that defendant R & B place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded in such letter that defendant R & B furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

XVII.

Defendant R & B, however, intentionally failed to comply with Plaintiff's requests by failing to place Plaintiff's telephone numbers on a "do not call" list and by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant R & B has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

XVIII.

The actions of the defendant described in this Count were done knowingly or willfully.

COUNT SEVEN

XIX.

On April 19, 2000, at or about 7:36 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant R & B. The telephone number identified as the source of the telephone solicitation was 281/356-5163. This telephone number is an internal telephone number of the defendant Larry Roberts, president of R & B. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant R & B, nor did Plaintiff have a prior relationship with the business represented by said Defendant, ADT, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

XX.

The actions of the Defendant R & B described in this Count were done willfully or knowingly.

COUNT EIGHT

XXI.

The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47CFR 64.1200, and section 35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by

the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

XXII

The actions of the Defendant R & B described in this Count were done willfully or knowingly.

COUNT NINE

XXIII.

Plaintiff requested by certified mail that defendant R & B place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded in such letter that defendant R & B furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

XXIV.

Defendant R & B, however, intentionally failed to comply with Plaintiff's requests by failing to place Plaintiff's telephone numbers on a "do not call" list and by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant R & B has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

XXV

The actions of the defendant described in this Count were done knowingly or willfully.

COUNT TEN

XXVI

On May 04, 2000, at or about 5:11 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant R & B. The telephone number identified as the source of the telephone solicitation was 713/462-8576. This telephone number is an internal telephone number of the defendant R & B. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant R & B, nor did Plaintiff have a prior relationship with the business represented by said Defendant, ADT, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

XXVII

The actions of the Defendant R & B described in this Count were done willfully or knowingly.

COUNT ELEVEN

XXVIII.

The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Federal Code of Regulations, 47CFR, 64.1200, and section 35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

XXIX.

The actions of the Defendant R & B described in this Count were done willfully or knowingly.

COUNT TWELVE

XXX.

Plaintiff requested by certified mail that defendant R & B place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded in such letter that defendant R & B furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

XXXI.

Defendant R & B, however, intentionally failed to comply with Plaintiff's requests by failing to place Plaintiff's telephone numbers on a "do not call" list and by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant R & B has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

XXXII.

The actions of the defendant described in this Count were done knowingly or willfully.

COUNT THIRTEEN

XXXIII.

On June 16, 2000, at or about 11:32 o'clock a.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant R & B. The telephone number identified as the source of the telephone solicitation was 713/462-8576. This telephone number is an internal telephone number of the defendant R & B. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant R & B, nor did Plaintiff have a prior relationship with the

business represented by said Defendant, ADT, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

XXXIV.

The actions of the Defendant R & B described in this Count were done willfully or knowingly.

COUNT FOURTEEN

XXXV.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

XXXVI.

The actions of the Defendant R & B Security, Inc. described in this Count were done willfully or knowingly.

COUNT FIFTEEN

XXXVII.

Plaintiff requested by certified mail that defendant R & B place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded in such letter that defendant R & B furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

XXXVIII.

Defendant R & B, however, intentionally failed to comply with Plaintiff's requests by failing to place Plaintiff's telephone numbers on a "do not call" list and by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant R & B has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

XXXIX.

The actions of the defendant described in this Count were done knowingly or willfully.

COUNT SIXTEEN

XL.

On July 27, 2000, at or about 3:04 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant R & B. The telephone number identified as the source of the telephone solicitation was 713/462-8474. This telephone number is an internal telephone number of the defendant R & B. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no

prior relationship with the Defendant R & B, nor did Plaintiff have a prior relationship with the business represented by said Defendant, ADT, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

XLI.

The actions of the Defendant R & B described in this Count were done willfully or knowingly.

COUNT SEVENTEEN

XLII.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

XLIII.

The actions of the Defendant R & B described in this Count were done willfully or knowingly.

COUNT EIGHTEEN

XLIV.

Plaintiff requested by certified mail that defendant R & B place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded in such letter that defendant R & B furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

XLV.

Defendant R & B., however, intentionally failed to comply with Plaintiff's requests by failing to place Plaintiff's telephone number on a "do not call" list and failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant R & B has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

XLVI.

The actions of the defendant described in this Count were done knowingly or willfully.

COUNT NINETEEN

XLVII.

On August 8, 2000, at about 4:53 o'clock p.m., Plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant R & B. The telephone number identified by the source of the telephone solicitation was 713-462-8513. This telephone number is an internal telephone number of the Defendant R & B. Such solicitation is a violation of 47USC

section 227(b)(1)(b) and section 35.47(g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant R & B, nor did Plaintiff have a prior relationship with the business represented by said Defendant, ADT, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

XLVIII.

The actions of the Defendant R & B described in this Count were done willfully or knowingly.

COUNT TWENTY

XLIX.

The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus there is a further violation of the TCPA, the Code of Federal Regulations, 47CFR 64.1200, and section 35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Federal Regulations Code 47CFR 64.1200, and section 35.47(g) of the Texas Business and Commerce Code.

L.

The actions of the Defendant R & B described in this count were done willingly or knowingly.

COUNT TWENTY-ONE

LI.

Plaintiff requested by certified mail that Defendant R & B place Plaintiff's telephone number of Defendant's "do not call" list; Plaintiff further demanded in such letter that Defendant R & B furnish to Plaintiff a copy of Defendant's policy on maintaining a "do not call" list.

LII.

Defendant R & B, however, intentionally failed to comply with Plaintiff's requests by failing to place Plaintiff's telephone numbers on a "do not call" list and by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "do not call" list. Thus, Defendant R & B has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.27(g) of the Texas Business and Commerce Code.

LIII.

The actions of the defendant described in this Count were done knowingly or willfully.

LIV.

On August 14, 2000, at or about 4:02 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant R & B. The telephone number identified as the source of the telephone solicitation was (713) 462-5463. This telephone number is

an internal telephone number of the defendant R & B. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant R & B, nor did Plaintiff have a prior relationship with the business represented by said Defendant, ADT, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

LV.

The actions of the Defendant R & B described in this Count were done willfully or knowingly.

COUNT TWENTY-TWO

LVI.

The artificial or pre-recorded telephone solicitation did not provide the name of caller. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

LVII

The actions of the Defendant R & B described in this Count were done willfully or knowingly.

COUNT TWENTY-THREE

LVIII

Plaintiff requested by certified mail that defendant R & B place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded in such letter that defendant R & B furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

LIX.

Defendant R & B, however, intentionally failed to comply with Plaintiff's requests by failing to place Plaintiff's telephone numbers on a "do not call" list and by failing to provide Plaintiff with a copy of said Defendant's policy on maintaining a "Do Not Call" list. Thus, Defendant R & B has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

LX.

The actions of the defendant described in this Count were done knowingly or willfully.

COUNT TWENTY-FOUR

LXI.

On April, 24, 2000, at or about 2:25 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant Fort Knox. The telephone number identified as the source of the telephone solicitation was 281-858-4129. This telephone number is an internal telephone number of the defendant Fort Knox. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant Fort Knox, nor did Plaintiff have a prior relationship with the business represented by Defendant ADT, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

LXII.

The actions of the Defendant Fort Knox described in this Count were done willfully or knowingly.

COUNT TWENTY-FIVE

LXIII.

The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200 and Section 35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200 , and Section 35.47(g) of the Texas Business and Commerce Code.

LXIV.

The actions of the Defendant Fort Knox described in this Count were done willfully or knowingly.

COUNT TWENTY-SIX

LXV.

Plaintiff requested by certified mail that defendant Fort Knox place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded in such letter that defendant Fort Knox furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

LXVI.

Defendant Fort Knox, however, intentionally failed to comply with Plaintiff's requests by failing to place Plaintiff's telephone numbers on a "do not call" list and by failing to provide Plaintiff with a copy of said Defendant Fort Knox policy on maintaining a "Do Not Call" list. Thus, Defendant has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

LXVII.

The actions of the defendant described in this Count were done knowingly or willfully.

COUNT TWENTY-SEVEN

LXVIII.

On April 25, 2000, at or about 10:22 o'clock a.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant Fort Knox. The telephone number identified as the source of the telephone solicitation was 281-858-8214. This telephone number is an internal telephone number of the defendant Fort Knox. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant Fort Knox, nor did Plaintiff have a prior relationship with the business represented by Defendant ADT, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

LXIX.

The actions of the Defendant Fort Knox described in this Count were done willfully or knowingly.

COUNT TWENTY-EIGHT

LXX.

The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200 and Section 35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200 , and Section 35.47(g) of the Texas Business and Commerce Code.

LXXI.

The actions of the Defendant Fort Knox described in this Count were done willfully or knowingly.

COUNT TWENTY-NINE

LXXII.

Plaintiff requested by certified mail that defendant Fort Knox place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded in such letter that defendant Fort Knox furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

LXXIII.

Defendant Fort Knox, however, intentionally failed to comply with Plaintiff's requests by failing to place Plaintiff's telephone numbers on a "do not call" list and by failing to provide Plaintiff with a copy of said Defendant Fort Knox policy on maintaining a "Do Not Call" list. Thus, Defendant has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

LXXIV.

The actions of the defendant described in this Count were done knowingly or willfully.

COUNT THIRTY

LXXV.

On July 22, 2000, at or about 3:44 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant Fort Knox. The telephone number identified as the source of the telephone solicitation was 281-858-1791. This telephone number is an internal telephone number of the defendant Fort Knox. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant Fort Knox, nor did Plaintiff have a prior relationship with the business represented by Defendant ADT, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

LXXVI.

The actions of the Defendant Fort Knox described in this Count were done willfully or knowingly.

COUNT THIRTY-ONE

LXXVII.

The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200 and Section 35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by

the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200 , and Section 35.47(g) of the Texas Business and Commerce Code.

LXXVIII.

The actions of the Defendant Fort Knox described in this Count were done willfully or knowingly.

COUNT THIRTY-TWO

LXXIX.

Plaintiff requested by certified mail that defendant Fort Knox place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded in such letter that defendant Fort Knox furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

LXXX.

Defendant Fort Knox, however, intentionally failed to comply with Plaintiff's requests by failing to place Plaintiff's telephone numbers on a "do not call" list and by failing to provide Plaintiff with a copy of said Defendant Fort Knox policy on maintaining a "Do Not Call" list. Thus, Defendant has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

LXXXI.

The actions of the defendant described in this Count were done knowingly or willfully.

COUNT THIRTY-THREE

LXXXII.

On July 23, 2000, at or about 1:15 o'clock p.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant Fort Knox. The telephone number identified as the source of the telephone solicitation was 281-858-8214. This telephone number is an internal telephone number of the defendant Fort Knox. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff had no prior relationship with the Defendant Fort Knox, nor did Plaintiff have a prior relationship with the business represented by Defendant ADT, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

LXXXIII.

The actions of the Defendant Fort Knox described in this Count were done willfully or knowingly.

COUNT THIRTY-FOUR

LXXXIV.

The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200 and Section 35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200 , and Section 35.47(g) of the Texas Business and Commerce Code.

LXXXV.

The actions of the Defendant Fort Knox described in this Count were done willfully or knowingly.

COUNT THIRTY-FIVE

LXXXVI.

Plaintiff requested by certified mail that defendant Fort Knox place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded in such letter that defendant Fort Knox furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

LXXXVII.

Defendant Fort Knox, however, intentionally failed to comply with Plaintiff's requests by failing to place Plaintiff's telephone numbers on a "do not call" list and by failing to provide Plaintiff with a copy of said Defendant Fort Knox policy on maintaining a "Do Not Call" list. Thus, Defendant has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

LXXXVIII.

The actions of the defendant described in this Count were done knowingly or willfully.

COUNT THIRTY-SIX

LXXXIX.

On July, 24, 2000, at or about 10:17 o'clock a.m., plaintiff received an artificial or pre-recorded voice telephone solicitation initiated by Defendant Fort Knox. The telephone number identified as the source of the telephone solicitation was 281/858-8214. This telephone number is an internal telephone number of the defendant Fort Knox. Such solicitation is a violation of 47 U.S.C. §227(b)(1)(B) and Section 35.47 (g) of the Texas Business and Commerce Code. Plaintiff

had no prior relationship with the Defendant Fort Knox, nor did Plaintiff have a prior relationship with the business represented by Defendant ADT, nor was there a prior express consent by Plaintiff to receive such telephone solicitations to Plaintiff's residential telephone line.

XC.

The actions of the Defendant Fort Knox described in this Count were done willfully or knowingly.

COUNT THIRTY-SEVEN

XCI.

The artificial or pre-recorded telephone solicitation did not provide the name of the caller. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200 and Section 35.47(g) of the Texas Business and Commerce Code.

The artificial or pre-recorded telephone solicitation did not give a telephone number or address of the entity or person initiating the telephone solicitation or the business represented by the telephone solicitation. Thus, there is a further violation of the TCPA, the Code of Federal Regulations, 47 C.F.R. 64.1200, and Section 35.47(g) of the Texas Business and Commerce Code.

XCII.

The actions of the Defendant Fort Knox described in this Count were done willfully or knowingly.

COUNT THIRTY-EIGHT

XCIII.

Plaintiff requested by certified mail that defendant Fort Knox place Plaintiff's telephone number on defendant's "Do Not Call" list; Plaintiff further demanded in such letter that defendant Fort Knox furnish to plaintiff a copy of defendant's policy on maintaining a "Do Not Call" list.

XCIV.

Defendant Fort Knox, however, intentionally failed to comply with Plaintiff's requests by failing to place Plaintiff's telephone numbers on a "do not call" list and by failing to provide Plaintiff with a copy of said Defendant Fort Knox policy on maintaining a "Do Not Call" list. Thus, Defendant has further violated 47 C.F.R. 64.1200(e)(2) and Section 35.47(g) of the Texas Business and Commerce Code.

XCV.

The actions of the defendant described in this Count were done knowingly or willfully.

APPLICABLE TO ALL COUNTS

XCVI.

Pursuant to 47 U.S.C. §227(b) and Section 35.47(g) of the Texas Business and Commerce Code Plaintiff is entitled to bring this private cause of action against Defendants R & B and Fort Knox for violations of the TCPA, the federal regulations enacted pursuant thereto, and §35.47 (g) of the Texas Business and Commerce Code.

XCVII.

Pursuant to 47 U.S.C. §227(B)(3) and §35.47 (g) of the Texas Business and Commerce Code Plaintiff has incurred actual monetary losses from such violation including but not limited to attorney's fees. Plaintiff hereby seeks judgment of and from the Defendants, R & B, Fort Knox and ADT, jointly and severally, for the greater of \$500 for each violation or Plaintiff's actual monetary losses, including but not limited to attorney's fees, a sum which Plaintiff alleges to be within the jurisdictional limits of this Court.

XCVIII.

In addition, Plaintiff alleges that all or some of the violations of the TCPA and the Texas Business and Commerce Code committed by the Defendant R & B and Fort Knox were done willfully or knowingly. Plaintiff thus seeks additional damages in an amount determined by the Court equal to not more than three (3) times the amount found by the Court in accordance with Paragraphs XCVII hereof.

XCIX.

Furthermore, pursuant to 47 C.F.R. 64.1200(e)(2)(iii) and Section 35.47 (g) of the Texas Business and Commerce Code Defendant ADT is jointly and severally liable for the actions of Defendant R & B.

COUNT THIRTY-NINE

C.

In addition, plaintiff and other members of the public face irreparable and irremediable harm and damage if the said defendants, R & B, Fort Knox and ADT, their agents, attorneys, trustees, or employees continue to make telephone calls in violation of the Telephone Consumer Protection Act by:

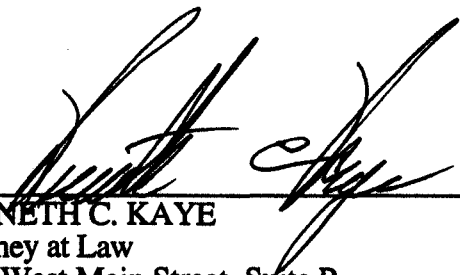
- a. making more than one telephone call to members of the public within a 12-month period on behalf of any seller of goods or services;
- b. initiating a telephone call to a residential telephone of members of the public using an artificial or prerecorded voice to deliver a message;

- c. initiating telephone calls to members of the public which include the transmission of an unsolicited advertisement;
- d. making calls to members of the public with whom R & B Home Security, Inc. d/b/a R&B Security and Lawrence Arthur Coronado, Individually and D/B/A Fort Knox Security Company and ADT Security Services, Inc. has no established business relationship;
- e. failing to clearly state at the beginning of the message in telephone calls which it initiates its identity;
- f. failing to clearly state at the beginning of the message in telephone calls which it initiates the identity of the individual making the call;
- g. failing to clearly state, at the beginning of the message in telephone calls which it initiates the identity of the entity which it represents;
- h. failing to clearly state during or after the message in telephone calls it initiates its telephone number;
- i. failing to clearly state during or after the message in telephone calls it initiates its address;
- j. failing to clearly state during or after the message in telephone calls it initiates the telephone number of the individual making the call;
- k. failing to clearly state during or after the message in telephone calls it initiates the address of the individual making the call;
- l. failing to clearly state during or after the message in telephone calls it initiates the telephone number of the entity which it represents;
- m. failing to clearly state during or after the message in telephone calls it initiates the address of the entity which it represents;
- n. failing to have a written policy available upon demand for maintaining a "do not call" list;
- o. failing to provide copies of its written "do not call" policy upon demand;
- p. failing to inform its personnel engaged in telephone solicitation of the existence and use of its "do not call" list;
- q. failing to train its personnel engaged in telephone solicitation in the use of the "do not call" list;
- r. failing to record the requests made by members of the public not to receive calls from it;
- s. failing to record at the time a member of the public makes a request, the request not to receive calls from it;
- t. failing to provide members of the public with the telephone number at which it could be contacted;

- u. failing to provide members of the public with the address at which it could be contacted; and
- v. failing to maintain records of members of the public who request not to receive future telephone solicitations.

Plaintiff respectfully moves that this Honorable Court, upon notice and hearing, grant a temporary injunction and, upon final trial hereof, a permanent injunction enjoining and restraining the said defendant, R & B Home Security Inc., Fort Knox Security Company and ADT Security Services, Inc. their agents, attorneys, trustees, and employees, from making telephone calls in violation of the Telephone Consumer Protection Act.

WHEREFORE, premises considered, Plaintiff prays that Defendants be cited to appear and answer herein, that this Court issue its Temporary Injunction enjoining the said Defendant R & B Security, Inc., Lawrence Arthur Coronado, Individually and D/B/A Fort Knox Security Company and ADT Security Services, Inc. in accordance with Count Thirty Nine above and that upon final trial hereof, this Court issue its permanent injunction enjoining said Defendant, R & B Security, Inc., Lawrence Arthur Coronado, Individually and D/B/A Fort Knox Security Company and ADT Security Services, Inc. in accordance with Count Thirty-Nine above; and that upon final trial hereof, Plaintiff recover a judgment of and from the Defendants, jointly and severally, for his damages as allowed by law, additional damages, costs of court, and for all such other and further relief, at law and in equity, to which Plaintiff may show himself justly entitled.



KENNETH C. KAYE
Attorney at Law
1101 West Main Street, Suite P
League City, Texas 77573
(281) 332-3508
FAX NO. (281) 332-4526
BAR NO. 11124000
ATTORNEY FOR PLAINTIFF

COPY

**TRUE COPY AS BEING PRESENTED
BY PARTY FILING ORIGINAL-**

~~OCT 31 2000~~

**PATRICIA RITCHIE, COUNTY CLERK
GALVESTON COUNTY, TEXAS**

Cause No. 42596

JOE SHIELDS

VS.

R & B HOME SECURITY, INC., LAWRENCE
ARTHUR CORONADO, INDIVIDUALLY
AND D/B/A FORT KNOX SECURITY
COMPANY, and ADT SECURITY SERVICES,
INC.

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IN THE COUNTY COURT

NO. _____ ~~County~~ Court No. 2
of Galveston County

GALVESTON COUNTY, TEXAS

SHOW CAUSE ORDER

TO THE CLERK OF THIS COURT:

You will issue Notice to the Respondents, R & B Home Security, Inc. and Lawrence Arthur Coronado, individually and d/b/a Fort Knox Security Company and ADT Security Services, Inc., to appear before me on the ____ day of _____, 2000, at ____ o'clock ____m., to show cause why this Court should not temporarily enjoin R&B Home Security, Inc., and Lawrence Arthur Coronado, individually and d/b/a Fort Knox Security Company, and ADT Security Services, Inc., their agents, attorneys, trustees, and employees from making telephone calls in violation of the Telephone Consumer Protection Act by:

- a. making more than one telephone call to members of the public within a 12-month period on behalf of any seller of goods or services;
- b. initiating a telephone call to a residential telephone of members of the public using an artificial or prerecorded voice to deliver a message;
- c. initiating telephone calls to members of the public which include the transmission of an unsolicited advertisement;
- d. making calls to members of the public with whom R & B Home Security, Inc. and Lawrence Arthur Coronado, individually and d/b/a Fort Knox Security Company and ADT Security Services, Inc., has no established business relationship;
- e. failing to clearly state at the beginning of the message in telephone calls which it initiates its identity;
- f. failing to clearly state at the beginning of the message in telephone calls which it initiates the identity of the individual making the call;
- g. failing to clearly state, at the beginning of the message in telephone calls which it initiates the identity of the entity which it represents;
- h. failing to clearly state during or after the message in telephone calls it initiates its telephone number;
- i. failing to clearly state during or after the message in telephone calls it initiates its address;

- j. failing to clearly state during or after the message in telephone calls it initiates the telephone number of the individual making the call;
- k. failing to clearly state during or after the message in telephone calls it initiates the address of the individual making the call;
- l. failing to clearly state during or after the message in telephone calls it initiates the telephone number of the entity which it represents;
- m. failing to clearly state during or after the message in telephone calls it initiates the address of the entity which it represents;
- n. failing to have a written policy available upon demand for maintaining a "do not call" list;
- o. failing to provide copies of its written "do not call" policy upon demand;
- p. failing to inform its personnel engaged in telephone solicitation of the existence and use of its "do not call" list;
- q. failing to train its personnel engaged in telephone solicitation in the use of the "do not call" list;
- r. failing to record the requests made by members of the public not to receive calls from it;
- s. failing to record at the time a member of the public makes a request, the request not to receive calls from it;
- t. failing to provide members of the public with the telephone number at which it could be contacted;
- u. failing to provide members of the public with the address at which it could be contacted; and
- v. failing to maintain records of members of the public who request not to receive future telephone solicitations.

JUDGE

COPY

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BY PARTY FILING ORIGINAL-
OCT 31 2000

PATRICIA RITCHIE, COUNTY CLERK
GALVESTON COUNTY, TEXAS

NO. 47,596

JOE SHIELDS

VS.

R&B HOME SECURITY, INC.,
LAWRENCE ARTHUR CORONADO,
INDIVIDUALLY, AND D/B/A FORT
KNOX SECURITY COMPANY
and ADT SECURITY SERVICES, INC.

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IN THE COUNTY COURT

NO. 2 OF

GALVESTON COUNTY, TEXAS

JUDGMENT

This cause came on regularly for trial on April 2, 2001. Plaintiff, Joe Shields, appeared in person and by his attorney of record. Defendants R&B Home Security, Inc. a/k/a R&B Security, and Lawrence Arthur Coronado, Individually and d/b/a Fort Knox Security Company, appeared by and through its duly authorized representative and in person and by and through their attorney of record. ADT Security Services, Inc. appeared by and through its duly authorized representative and its attorney of record.

No jury was demanded and all issues of fact were tried by the Court.

Having considered the evidence and arguments, the Court finds and concludes that Plaintiff, Joe Shields, is entitled to the relief hereinafter given.

It is, therefore, ORDERED, ADJUDGED and DECREED that R&B Home Security, Inc. a/k/a R&B Security, and Lawrence Arthur Coronado, Individually and d/b/a Fort Knox Security Company, their agents, attorneys, trustees, and employees be, and hereby are, ordered to desist from making telephone calls in violation of the Telephone Consumer Protection Act by:

- a. initiating a telephone call to a residential telephone of members of the public using an artificial or prerecorded voice to deliver a message;
- b. failing to clearly state at the beginning of the message in telephone calls which it initiates its identity;

A CERTIFIED COPY

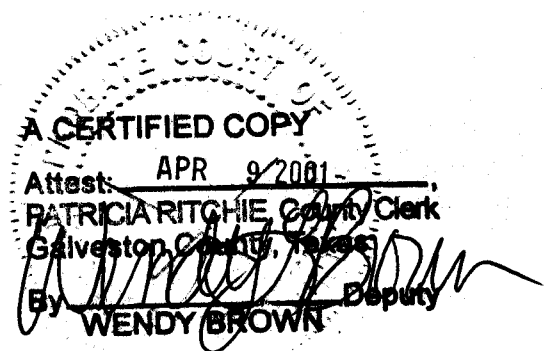
Attest: APR 9 2001

PATRICIA RITCHIE, County Clerk
Galveston County, Texas

By: Wendy Brown Deputy

- c. failing to clearly state at the beginning of the message in telephone calls which it initiates the identity of the individual making the call;
- d. failing to clearly state, at the beginning of the message in telephone calls which it initiates the identity of the entity which it represents;
- e. failing to clearly state during or after the message in telephone calls it initiates its telephone number;
- f. failing to clearly state during or after the message in telephone calls it initiates its address;
- g. failing to have a written policy available upon demand for maintaining a "do no call" list;
- h. failing to provide copies of its written "do not call" policy upon demand;
- i. failing to inform its personnel engaged in telephone solicitation of the existence and use of its "do not call" list;
- j. failing to train its personnel engaged in telephone solicitation in the use of the "do not call" list;
- k. failing to record the requests made by members of the public not to receive calls from it;
- l. failing to record at the time a member of the public makes a request, the request not to receive calls from it;
- m. failing to provide members of the public with the telephone number at which it could be contacted;
- n. failing to maintain records of members of the public who request not to receive future telephone solicitations.

It is furthermore, ORDERED, ADJUDGED and DECREED that Defendant Lawrence Arthur Coronado, Individually and d/b/a Fort Knox Security Company and his agents, attorneys, trustees, and employees be, and hereby is, commanded to desist and refrain from holding himself out as an authorized or affiliated dealer of ADT Security Services, Inc.



The Court is of the further opinion that Joe Shields is entitled to recover of and from R&B Home Security, Inc. a/k/a R&B Security, and Lawrence Arthur Coronado, Individually and d/b/a Fort Knox Security Company, jointly and severally, the sum of Sixteen Thousand and No/100ths Dollars (\$16,000.00).

It is further ORDERED that the Judgment hereby rendered shall bear interest at the rate of ten percent (10%) per annum compounded annually from the date of judgment until paid.

Plaintiff's suit against ADT Security Services, Inc., is hereby dismissed.

All costs of court expended or incurred in this cause are hereby adjudged against R&B Home Security, Inc. a/k/a R&B Security, and Lawrence Arthur Coronado, Individually and d/b/a Fort Knox Security Company, jointly and severally. All writs and processes for the enforcement and collection of this judgment or the costs of court may issue as necessary. This Judgment finally disposes of all parties and all claims and is appealable.

Signed this 2 day of April, 2001.



JUDGE

FILED

01 APR -3 PM 3:04


COUNTY CLERK
GALVESTON COUNTY, TEXAS

-3-

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APR 9 2001

Attest: PATRICIA RITCHIE, County Clerk
Galveston County, Texas

By WENDY BROWN, Deputy

APPROVED AS TO FORM:


KENNETH C. KAYE


Attorney at Law
State Bar No. 11124000
1101 West Main Street, Suite P
League City, Texas 77573
Telephone: (281) 332-3508
Facsimile: (281) 332-4526
ATTORNEY FOR JOE SHIELDS


LINDA BROOCKS

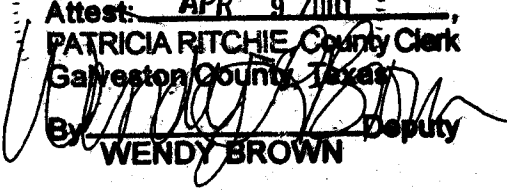
State Bar No. 03059100
SUZANNE S. KILLIAN
State Bar No. 11409015
Ogden, Gibson, White & Broocks, L.L.P.
2100 Pennzoil South Tower
711 Louisiana
Houston, Texas 77002
Telephone: (713) 844-3000
Facsimile: (713) 844-3030
**ATTORNEY FOR DEFENDANT,
ADT SECURITY SERVICES, INC.**


JUANITA BARNER

Attorney at Law
State Bar No. 24004538
2512 Southmore, Suite A
Houston, Texas 77004
Telephone: (713) 942-9430
Facsimile: (713) 942-0591
**ATTORNEY FOR R&B HOME SECURITY, INC.
AND LAWRENCE ARTHUR CORONADO**

FILED
01 APR -3 PM 3:04

COUNTY CLERK
GALVESTON COUNTY, TEXAS

A CERTIFIED COPY

Attest: APR 9 2001
PATRICIA RITCHIE, County Clerk
Galveston County, Texas
By 
WENDY BROWN, Deputy

Juanita Barner
2512 Southmore, Suite A
Houston, Texas 77004

CM/RRR 7000 1530 0002 3276 8275

T. Wade Welch
Ross W. Wooten
2401 Fountainview, Suite 215
Houston, Texas 77057

CM/RRR 7000 1530 0002 3276 8282

Joe Shields

Regular Mail